

Message Text

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ACTION EB-07

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FM AMEMBASSY LONDON

TO SECSTATE WASHDC PRIORITY 5377

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E. O. 11652 N/A

TAGS: EAIR, UK

SUBJECT: US-UK CIVAIR AGREEMENT: DESIGNATION
ARTICLE

FOLLOWING IS AGREED TEXT ON DESIGNATION:

1. (A) EACH CONTRACTING PARTY SHALL HAVE THE RIGHT TO
DESIGNATE AN AIRLINE OR AIRLINES FOR THE PUR-
POSE OF OPERATING THE AGREED SERVICES ON EACH
OF THE ROUTES SPECIFIED IN ANNEX 1 AND TO
WITHDRAW OR ALTER SUCH DESIGNATIONS. SUCH
DESIGNATIONS SHALL BE MADE IN WRITING AND
SHALL BE TRANSMITTED TO THE OTHER CONTRACTING
PARTY THROUGH DIPLOMATIC CHANNELS.
(B) A CONTRACTING PARTY MAY REQUEST CONSULTATIONS
WITH REGARD TO THE DESIGNATION OF AN AIRLINE
OR AIRLINES UNDER SUBPARAGRAPH (A) OF THIS
PARAGRAPH, BUT SUCH DESIGNATION SHALL TAKE
EFFECT IF AGREEMENT IS NOT REACHED WITHIN 60
DAYS FROM THE DATE OF THE NOTIFICATION OF
DESIGNATION.

2. NOTWITHSTANDING PARAGRAPH 1, FOR THE PURPOSE OF
OPERATING THE AGREED SERVICES ON THE SPECIFIED TRANS-
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ATLANTIC ROUTES, EACH CONTRACTING PARTY SHALL HAVE THE
RIGHT TO DESIGNATE NO MORE THAN:

- (A) TWO AIRLINES FOR COMBINATION AIR SERVICES ON
EACH OF TWO GATEWAY ROUTE SEGMENTS OF ITS OWN
CHOOSING;
- (B) ONE AIRLINE FOR COMBINATION AIR SERVICES ON
GATEWAY ROUTE SEGMENTS OTHER THAN THOSE

SELECTED UNDER SUBPARAGRAPH (1) ABOVE;

(C) TWO AIRLINES FOR COMBINATION AIR SERVICES ON GATEWAY ROUTE SEGMENTS OTHER THAN THOSE SELECTED UNDER SUBPARAGRAPH (1) ABOVE, PROVIDED:

(I) THE TOTAL ON-BOARD TRAFFIC CARRIED BY THE DESIGNATED AIRLINES OF BOTH CONTRACTING PARTIES ON A GATEWAY ROUTE SEGMENT EXCEEDS 600,000 ONE-WAY PASSENGERS IN EACH OF TWO CONSECUTIVE TWELVE MONTHS' PERIODS; OR (II) THE TOTAL ON-BOARD TRAFFIC CARRIED BY ITS DESIGNATED AIRLINE ON THE GATEWAY ROUTE SEGMENT EXCEEDS 400,000 ONE-WAY PASSENGERS IN EACH OF TWO TWELVE MONTHS' PERIODS. FOR THE PURPOSE OF THIS SUBPARAGRAPH, THE TRAFFIC LEVELS SPECIFIED MUST BE REACHED FOR THE FIRST TIME AFTER THE ENTRY INTO FORCE OF THIS AGREEMENT;

(D) TWO AIRLINES FOR COMBINATION AIR SERVICES ON GATEWAY ROUTE SEGMENTS OTHER THAN THOSE SELECTED UNDER SUBPARAGRAPH (1) ABOVE OR PERMITTED UNDER SUBPARAGRAPH (3) ABOVE, PROVIDED THE AIRLINE OR AIRLINES DESIGNATED FOR COMBINATION AIR SERVICES BY THE OTHER CONTRACTING PARTY FOR THAT GATEWAY ROUTE SEGMENT CHOOSE NOT TO OPERATE COMBINATION AIR SERVICES ON THAT SEGMENT OR SHOULD SUCH AIRLINE OR AIRLINES OPERATE ONLY ON AN INTERMITTENT BASIS

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(LESS THAN 100 ROUNDTrip COMBINATION FREQUENCIES WITHIN A TWELVE MONTH PERIOD). SUCH ADDITIONAL DESIGNATION SHALL CONTINUE IN FORCE NOTWITHSTANDING SUBSEQUENT REGULAR OPERATION BY AN AIRLINE OF THE OTHER CONTRACTING PARTY;

(E) THREE AIRLINES FOR ALL-CARGO AIR SERVICES, EXCEPT THAT, IF ONE CONTRACTING PARTY DESIGNATES AN AIRLINE TO OPERATE ALL-CARGO AIR SERVICES ON A GATEWAY ROUTE SEGMENT WHERE THE OTHER CONTRACTING PARTY HAS NOT DESIGNATED AN AIRLINE TO OPERATE ALL-CARGO AIR SERVICES, THAT OTHER CONTRACTING PARTY MAY DESIGNATE AN AIRLINE TO OPERATE SUCH SERVICES ON THAT GATEWAY ROUTE SEGMENT, NOTWITHSTANDING THE FACT THAT SUCH DESIGNATION WILL RESULT IN THE DESIGNATION OF MORE THAN THREE AIRLINES FOR ALL-CARGO AIR SERVICES.

A CONTRACTING PARTY MAKING DESIGNATIONS UNDER THIS ARTICLE SHALL SPECIFY WHICH SUBPARAGRAPH OF PARAGRAPH 2 APPLIES.

3. IF EITHER CONTRACTING PARTY WISHES TO DESIGNATE AN

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AIRLINE OR AIRLINES IN ADDITION TO THOSE SPECIFICALLY
PERMITTED, IT SHALL NOTIFY THE OTHER CONTRACTING PARTY.
THE SECOND CONTRACTING PARTY MAY EITHER (I) ACCEPT SUCH
FURTHER DESIGNATION; OR (II) REQUEST CONSULTATIONS.
AFTER CONSULTATIONS THE SECOND CONTRACTING PARTY MAY DE-
CLINE TO ACCEPT THE DESIGNATION.

4. ON RECEIPT OF A DESIGNATION MADE BY ONE CONTRACTING
PARTY UNDER THE TERMS OF PARAGRAPHS 1 OR 2 ABOVE, OR
ACCEPTED UNDER THE TERMS OF PARAGRAPH 3 ABOVE, AND OF AN
APPLICATION OR APPLICATIONS FROM THE AIRLINE SO DESIG-
NATED FOR OPERATING AUTHORIZATIONS IN THE FORM AND
MANNER PRESCRIBED FOR SUCH APPLICATIONS, THE OTHER CON-
TRACTING PARTY SHALL GRANT THE APPROPRIATE OPERATING
AUTHORIZATIONS AND TECHNICAL PERMISSIONS, PROVIDED:

- (1) SUBSTANTIAL OWNERSHIP AND EFFECTIVE CONTROL OF
THAT AIRLINE ARE VESTED IN THE CONTRACTING
PARTY DESIGNATING THE AIRLINE OR IN ITS
NATIONALS;
- (2) THE DESIGNATED AIRLINE IS QUALIFIED TO FULFILL
THE CONDITIONS PRESCRIBED UNDER THE LAWS AND
REGULATIONS NORMALLY APPLIED TO THE OPERATION

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OF INTERNATIONAL AIR SERVICES BY THE CONTRACT-
ING PARTY CONSIDERING THE APPLICATION OR
APPLICATIONS; AND

- (3) THE OTHER CONTRACTING PARTY IS MAINTAINING AND
ADMINISTERING SAFETY AND SECURITY STANDARDS
AS SET FORTH IN ARTICLE (AIRWORTHY-
NESS ARTICLE).

IF THE AERONAUTICAL AUTHORITIES OF THE CONTRACTING
PARTY CONSIDERING THE APPLICATION OR APPLICATIONS
ARE NOT SATISFIED THAT THE ABOVE CONDITIONS ARE
FULFILLED AT THE END OF A 90-DAY PERIOD FROM
RECEIPT OF THE APPLICATION OR APPLICATIONS FROM THE
DESIGNATED AIRLINES, EITHER CONTRACTING PARTY MAY
REQUEST CONSULTATIONS, WHICH SHALL BE HELD WITHIN
30 DAYS OF THE REQUEST.

5. WHEN AN AIRLINE HAS BEEN DESIGNATED AND AUTHORIZED
IN ACCORDANCE WITH THE TERMS OF THIS ARTICLE, IT MAY
OPERATE THE RELEVANT AGREED SERVICES ON THE SPE-
CIFIED ROUTES, PROVIDED, HOWEVER, THAT THE AIRLINE COM-
PLIES WITH THE APPLICABLE PROVISIONS OF THE AGREEMENT.

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